IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE No 18 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF GIFT-TAX

Versus

KAMALINI KHATAU

Appearance:

1. GIFT TAX REFERENCE No. 18 of 1987

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Mr BB Naik, learned counsel for the revenue

requests that this Bench may please take up this reference for disposal, as the controversy raised herein is squarely covered by the decision of this Court in Gift-tax Reference No. 2 of 1986 and also because the reference has been pending for the last about 14 years, notwithstanding the fact that one of us (D.A. Mehta, J.) had appeared for the assessee at the hearing of the reference application before the Tribunal.

2. In this reference at the instance of the revenue, the following question has been referred for the opinion of this Court in respect of assessment year 1977-78 :-

"Whether, the Appellate Tribunal has been right in law in holding that the G.T.O. was not justified in levying Gift Tax on the value of the entire corpus on the ground that it was only the assessee's interest in the property which was transferred and it was that which was required to be considered for the purpose of Gift-tax ?"

3. Mr BB Naik, learned counsel for the revenue and Mr RK Patel, learned counsel for the respondent-assessee state that the controversy raised herein is squarely covered by the decision of this Court in Gift-tax Reference No. 2 of 1986 wherein this Court has confirmed the view of the Tribunal that the Gift-tax Officer was not justified in levying gift-tax on the value of the entire corpus because it was only the assessee's interest in the property which was transferred and it was that which was required to be considered for the purpose of gift-tax.

4. We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-